REMARKS

This paper is responsive to the Office Action dated May 20, 2005, which constitutes the fifth, non-final Office Action in this application. Applicants have not amended any of the claims. Claims 1, 3-12, 14-37 and 39-63 remain pending.

In the Office Action, the Examiner objected to claims 8-12, 33-37 and 53-58 as being dependent on a rejected base claim, but indicated that such claims include subject matter that would be allowable if rewritten into independent form.

The Examiner rejected claims 1, 3-7, 14-32, 39-52 and 59-63 under 35 U.S.C. 103(a) as being unpatentable over Hilliard et al. (USPN 2002/0080168) in view of Holmes (USPN 6,686,953). Applicants respectfully traverse the rejections in view of the following comments.

The applied references fail to disclose or suggest the inventions defined by Applicants' claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention. In particular, all of the pending independent claims (except claim 62) require obtaining information characterizing the color response of a display device associated with a client residing on a computer network by guiding the client through a color profiling process that profiles the color response of the display device, wherein the color profiling process includes estimating the gray balance of the display device. Claim 62 recites the transmission of information characterizing the color response of a display device associated with a client residing on a computer network, wherein the information includes information based on an indication gray balance, as well as gamma and black point

In support of the rejections, the Examiner cited Hilliard et al. as disclosing the invention substantially as claimed. With respect to claim 1, for example, the Examiner characterized Hilliard et al. as disclosing obtaining information characterizing the color response of a display device associated with a client residing on a computer network by guiding the client through a color profiling process that includes estimating the gray balance of the display device. The Examiner recognized that Hilliard et al. does not disclose that the color profiling process includes estimating the gray balance of the display device. However, the Examiner characterized Holmes as teaching a color profiling process that includes estimating the gray balance. The Examiner asserted that one of ordinary skill in the art, in view of Holmes, would have considered it obvious to modify the Hilliard et al. system to

employ a color profiling process for a display device that includes estimating the gray balance of the display device.

The Examiner's conclusion of obviousness is improper. Holmes does not disclose or suggest a color profiling process that includes estimating the gray balance of the display device, as the Examiner's analysis would suggest. Instead, Holmes describes a calibration process in which gray balance is sensed and adjusted locally for a device. The Examiner appears to be confused between localized "calibration" of a display device and remote "profiling" of a display device. Calibration is entirely different than profiling.

Calibration is a process by which the output of a display device is adjusted in some way to achieve a desired output, such as a desired gray balance output. In Holmes, for example, gray balance is sensed, controlled and adjusted locally on a display in order to achieve the desired display output. Calibration, as described by Holmes, is not suggestive of color profiling of a display device, as required by Applicants' claims. Thus, to the extent Holmes suggests calibration of a display device by adjusting gray balance, it still clearly lacks any suggestion of a color profiling process that includes gray balance estimation.

Again, color profiling is entirely different than calibration of a display. Whereas calibration seeks to adjust or modify display output, color profiling seeks to characterize the output of the device. Color profiling does not typically adjust the output of the display. Instead, color profiling characterizes the output of the device, e.g., in order to allow other devices (such as a server device) to know what output to expect from the profiled device. As required by Applicants' claims, color images delivered to a profiled client device are modified based on the information characterizing the color response of a display device associated with a client residing on a computer network, in order to improve the accuracy of the color image when displayed on the display device. In this manner, a server can account for color inaccuracy across different client display devices by modifying images sent to the different display devices in a manner that accounts for the characterization of such devices.

The Examiner's conclusion of obviousness is fundamentally flawed for several reasons. In particular, as outlined above, Holmes does not disclose or suggest a color profiling process that includes estimating the gray balance of the display device. Moreover, the Examiner recognized that Hilliard does not suggest this feature. Thus, none of the applied references discloses or suggests obtaining information characterizing the color response of a display device associated with a client residing on a computer network by guiding the client through a color profiling process that profiles the color response of the display device,

wherein the color profiling process includes estimating the gray balance of the display device, as required by all of Applicants' claims (except claim 62). With respect to claim 62, none of the applied references discloses or suggests transmitting to a remote server information characterizing the color response of a display device associated with a client residing on a computer network, wherein the information includes information based on an indication of gamma, gray balance and black point.

It is well established that the Examiner bears the burden of establishing a prima facie case of obviousness.[1] In doing so, the Examiner must determine whether the prior art provides a "teaching or suggestion to one of ordinary skill in the art to make the changes that would produce" the claimed invention.[2] A prima facie case of obviousness is established only when this burden is met. In this case, the Examiner has clearly failed to identify any reference that discloses a color profiling process that includes estimating the gray balance of the display device, as required by Applicants' claims. Again, a calibration process that adjusts gray balance locally at a display, as described in Holmes, is in no way suggestive of a color profiling process that includes estimating the gray balance of the display device associated with a client device on a computer network.

Furthermore, even if a person of ordinary skill in the art incorporated the calibration process of Holmes into the Internet color techniques of Hilliard, the features of Applicants' claims would not be achieved. In particular, if the calibration described by Holmes were performed on client devices (or the server device), the teaching of Hilliard would still suggest that the server device needs to characterize the client devices. For any characterization of the client devices, however, neither Holmes nor Hilliard discloses or suggests a color profiling process includes gray balance estimation.

In addition, the combination of the calibration process of Holmes with the Internet color techniques of Hilliard would not even make sense to a person of ordinary skill in the art. To be sure, Hilliard is concerned with remote characterization of networked devices, whereas Holmes describes local calibration techniques for individual localized displays. If the calibration techniques of Holmes were used for client devices, color characterization would not even appear to be necessary, insofar as the calibrated client devices would all have identical output. In this case, if the server really knew how each client device were calibrated, color inaccuracy across different client devices might not even present a problem.

---

[1] *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).
[2] *In re Chu*, 36 USPQ2d 1089, 1094 (Fed. Cir. 1995).

Put another way, the calibration techniques of Holmes actually conflict with color characterization. For example, if the techniques of Hilliard were modified by the color calibration techniques of Holmes, the system would seek to characterize the display for color correction to images, but also calibrate the display to which corrected image files are sent. The end result of this combination would be that the color corrected image files would make no sense, because they would be sent to a display device that is already physically calibrated. In other words, color calibration techniques taught by Holmes would negate the need for color characterization and color corrections to the image files. For this reason, combining the teaching of Holmes into the system of Hilliard would make no sense to a person of ordinary skill in the art.

Of course, the reality in networked or Internet color setting is that the server device typically does not know whether, or to what extent, the client devices are calibrated, and cannot assume whether or not such calibration was accurately performed at each client device. For this reason, Applicants' claimed invention recites obtaining information characterizing the color response of a display device associated with a client residing on a computer network by guiding the client through a color profiling process that profiles the color response of the display device. Unlike any of the applied references, Applicants' claimed invention further requires that the color profiling process for the client includes estimating the gray balance of the display device. None of the applied references (including the calibration techniques of Holmes that locally adjust gray balance) suggests estimating the gray balance of the display device as part of color profiling process.

Neither Holmes nor Hilliard discloses or suggests a color profiling process of characterizing the client devices that includes gray balance estimation. Whether or not gray balance adjustments are performed locally for calibration, as taught by Holmes, nothing in the applied references discloses or suggests remote color profiling that includes estimation of the gray balance.

In view of the clear deficiencies of Hilliard and Holmes with respect to Applicants' independent claims, Applicants reserve further comment on all of the dependent claims at this time. However, Applicants do not acquiesce to any of the Examiner's current rejections or characterizations of the applied references. Applicants believe that all pending claims are clearly patentable over the applied references, for at least the reasons set forth above. Numerous other reasons for patentability may also exist.

Applicants also reserve the right to challenge the prior art status of either Hilliard or Holmes. In particular, Applicants reserve the right to challenge whether the priority documents of Hilliard or Holmes support the features that the Examiner has relied upon, and also reserve the right to possibly demonstrate prior invention under 37 C.F.R. § 1.131.

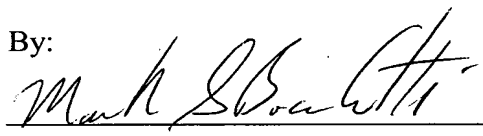
For at least the reasons advanced above, all claims in this application are in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of all pending claims. The Examiner is invited to telephone the below-signed attorney to discuss this application.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225. ***A duplicate copy of this communication is enclosed.***

Date:

8/15/05

By:



Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201
Telephone: 585-477-3395
Facsimile: 585-477-4646

Name: Mark G. Bocchetti
Reg. No.: 31,330